

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3132 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RASIKLAL CHANDULAL SHAH

Versus

CENTRAL AEXCISE & CUSTOMS DEPARTMENT

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Appearance:

MR MB GANDHI for Petitioner

Mr B B NAIK for the respondents

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

This Special Civil Application has been filed by the petitioner-Rasiklal Chandulal Shah under Article 226 of the constitution of India seeking direction to implement the assessment made by the CPWD for the period prior to 9.9.1993. A further prayer has been made that direction may be given to the respondents to make regular payment for the year 1992 and subsequent years as per the

rent assessed by the CPWD. It is not in dispute that under the certificate dated 9.9.1988, the CPWD has assessed rent of the subject premises between Rs.4,718/and Rs. 5,330/-. The assessment has been made in accordance with the principles laid down by the CPWD and as per the prevailing market rates in the locality. It would thus be convenient to fix the rent of the premises taking the average of the aforesaid two figures given in the certificate which comes to Rs.5,024/-. The respondents have no objection in fixing the rent and paying the rent on the aforesaid basis. Similarly it is also not in dispute that under the certificate dated 7.12.1993, rent of the premises has been assessed as per the principles laid down by the Directorate at the rate of Rs.6,746/- and as per the prevailing market rate Rs.9,409/-. Thus taking aveage of the above two figures, the rent can be conveniently be fixed at Rs.8,078/- per month for the period of 5 years commencing from 1992. It is stated that certain amount of rent has been paid to the petitioner under the interim orders of this Court

2. In view of the above, this Special Civil Application is allowed. The respondents are directed to fix the rent as indicated above for the different periods. The respondents shall undertake the exercise of calculation accordingly after adjusting the amount paid in excess or short. If any amount is paid in excess, the same shall be adjusted in future rent. Average rent as indicated above under certificate of 1993 shall continue to be in force for a minimum period of 5 years and the respondents shall regularly pay rent to the petitioners. Calculation will be undertaken and the payment, if any, due shall be paid to the petitioner within a period of 2 months from the date of receipt of writ.

Rule made absolute accordingly with no order as to costs.

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